

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 380

Introduced by Assembly Member Wright

February 11, 1999

An act to amend ~~Sections 685.020 and 695.211~~ *Section 685.020* of, and to add Section 695.212 to, the Code of Civil Procedure, to amend Sections 3652, 3653, 3654, ~~4724~~, 7575, and 7642 of, to amend the heading of Chapter 6 (commencing with Section 3650) of Part 1 of Division 9 of, to add Sections 3651.5 and 7645 to, ~~and to add Article 4 (commencing with Section 3690) to Chapter 6 of Part 1 of Division 9 of, and to repeal Section 4071.5 of,~~ the Family Code, to add Section 166.5 to the Penal Code, and to *amend Sections 11350 and 11478.1 of, to add Sections 11350.01, 11350.02, 11350.61, 11350.63, 11350.85, 11356.5, 11358, 11475.12, 11475.17, and 11478.3 to the Welfare and Institutions Code, relating to support orders.*

LEGISLATIVE COUNSEL'S DIGEST

AB 380, as amended, R. Wright. Support orders: modification: set aside: enforcement.

(1) Existing law provides that, if a money judgment is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

This bill would ~~provide that~~, with respect to a money judgment or order for child support, ~~interest shall not commence to accrue on any installment until the support obligor has actual notice of the judgment or order for support,~~

~~as specified, or has been served with notice of an earnings assignment or withholding order or with notice of levy on his or her assets. The bill would also prohibit the accrual of any installments, or any interest on any installments arrearages, of child support while the support obligor is incarcerated in a jail or correctional facility in excess of 90 days, subject to an exception, and would provide procedures for providing notice, determining arrearages, and recalculating arrearages in accordance with this provision.~~

(2) Existing law establishes procedures and time limits for granting a party relief from a default, judgment, dismissal, or other order on specified grounds in any civil action and for granting a party relief from a judgment, or any part thereof, on specified grounds in proceedings for dissolution or nullity of marriage or legal separation of the parties. Existing law also provides procedures for the modification or termination of child, family, and spousal support orders and the modification of orders determining the existence or nonexistence of the father and child relationship.

This bill would authorize the court to set aside a support order, or any part thereof, ~~or an order determining paternity,~~ on the grounds of fraud, perjury, lack of actual notice, or the interests of justice, as specified. It also would establish procedures and time limits therefor ~~and would authorize the recovery of attorneys' fees and compensatory and punitive damages in specified cases. The bill would also authorize and establish procedures for the court to set aside an order or judgment establishing paternity based on the results of genetic tests in specified circumstances.~~

(3) Under existing law, in proceedings in which child support is ordered to be paid to a parent receiving welfare moneys, the court is required, among other things, to direct the district attorney to appear on behalf of the welfare recipient in any enforcement proceedings.

This bill would provide that, in any case ~~where in which~~ a parent has requested or is receiving support enforcement services of the district attorney, ~~the district attorney shall accept service on behalf of the parent in any proceedings to modify, terminate, or set aside the support order and his or her whereabouts are unknown, the district attorney shall take all~~

steps necessary to locate the parent, and would require any parent receiving those services to advise the district attorney of his or her current address. The bill would also require any notice of support delinquency issued by a governmental agency to state the date on which the delinquency was calculated.

(4) Existing law authorizes a child support obligee to file and serve a notice of delinquency if the support obligation is more than 30 days in arrears, and authorizes the court to, among other things, assess specified penalties if the arrearage remains unpaid more than 30 days after the notice of delinquency is served. Existing law provides that the notice of delinquency may be served personally, by certified mail, or in any manner provided for service of summons.

This bill would limit the means of service of the notice of delinquency to personal service or certified mail with return receipt.

(5) Existing law provides that, for purposes of computing the minimum level of child support, no deduction from income shall be granted if specified aid payments are being made to the child or children of the parent seeking the deduction, even if the payments are being received by the other parent.

This bill would repeal that provision.

(6) In proceedings against an individual for failure to sufficiently provide for the support of his or her children or spouse, existing law authorizes the court to suspend the proceedings or sentence, at specified times in the proceedings, if the defendant enters into an undertaking conditioned upon the defendant paying support, as specified.

This bill would authorize the court, at those specified times in the proceedings and upon similar conditions, to suspend the proceedings or sentence in a contempt action against an individual for failure to comply with a court order for payment of child, family, or spousal support; *but would authorize the court to waive the provision of an undertaking in those circumstances.*

~~(6)~~

(7) Existing law declares that, if a family is granted aid under the CalWORKS program as a result of the absence of

a parent from the family home, the noncustodial parent shall reimburse the county for specified amounts of unpaid support.

This bill would require the county to promptly notify the noncustodial parent, *except in specified circumstances*, that aid has been granted and that support reimbursement is required. *The bill would also prohibit recovery by the county of any support for any period prior to the service of the complaint in an action to establish support.*

(7)

(8) Existing law requires the district attorney, in specified child support cases, to provide to the Department of Social Services a list of persons who are not in compliance with a support order or judgment; which list is then provided by the department to all state boards that issue licenses, as defined, for the purpose of withholding issuance or renewal of any license to any person named on the list, until a release is issued by the district attorney. If a license applicant believes his or her name should be deleted from the list, existing law specifies procedures for judicial review of that issue in the superior court.

This bill would require licensing boards to process releases within 2 days after receipt and require that the judicial review be conducted by the municipal court, in counties in which there is a municipal court, if specified criminal proceedings are pending against the applicant in that court at the time review is sought.

(8)

(9) Existing law provides that an action may be brought by the district attorney to obtain or enforce a child support obligation on behalf of a parent who has requested or is receiving support enforcement services of the district attorney. In those actions, a default judgment may be entered against a defendant ~~that~~ *who* fails to answer or otherwise appear within a specified time. Existing law also provides that when a parent makes an application for child support services, the applicant shall provide the district attorney with a statement of arrearages, if any are owed. Existing law provides procedures for the district attorney to review the amount of arrearages alleged in that statement.



This bill would establish, as of a specified date, procedures and remedies if a person claims that a default judgment has been entered, or enforcement actions have been taken, against him or her in error due to mistaken identity, as specified. Filing a false claim of mistaken identity would be punishable as a misdemeanor. If the district attorney rejects a person's claim of mistaken identity, or fails to provide the remedies specified, the bill would provide that the person would be entitled to file a court action to recover actual damages, attorneys' fees and costs, and any other relief as the court deems just. *The bill would also impose additional requirements on district attorneys regarding service of process on defendants in support enforcement actions.*

~~(9)~~

(10) The bill would declare that the act shall be referred to as the Child Support Enforcement Fairness Act of 2000 and would make related findings and declarations.

~~(10)~~

(11) Because this bill would create a new crime and would impose new duties on local personnel, it would create a state-mandated local program.

~~(11)~~

(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. (a) This act shall be referred to as the Child Support Enforcement Fairness Act of 2000.

(b) The Legislature finds and declares as follows:

(1) The efficient and fair enforcement of child support orders is essential to ensuring compliance with those orders and respect for the administration of justice.

(2) A large number of child support orders are obtained by a default judgment. In one study by the Judicial Council, more than 70 percent of all child support orders studied were obtained by default judgment. Very often, by the time a support obligor receives actual notice of the support order, the accumulated amount of ~~arrearages totals several thousands of dollars. Those~~ *arrearages totals tens of thousands of dollars. These* arrearages amounts, particularly for a low wage earner, are ~~an instant~~ *a significant* obstacle to good faith compliance. Ensuring prompt, actual notice of a child support obligation will prevent the accumulation of large amounts of arrearages and encourage greater timely compliance.

(3) Thousands of individuals each year are mistakenly identified as ~~the defendant in being liable for child support actions. Assets are seized, family relationships are destroyed, and the~~ *As a result of that action, the* ability to earn a living is severely impaired, ~~assets are seized, and family relationships are often destroyed.~~ It is the moral, legal, and ethical obligation of all enforcement agencies to take prompt action to recognize those cases where a person is mistakenly identified as a support obligor in order to minimize the harm and correct any injustice to that person.

SEC. 2. Section 685.020 of the Code of Civil Procedure is amended to read:

685.020. (a) Except as provided in subdivision (b) and in ~~Sections 695.211 and Section 695.212,~~ interest commences to accrue on a money judgment on the date of entry of the judgment.

(b) Unless the judgment otherwise provides, if a money judgment is payable in installments, interest commences to accrue as to each installment on the date the installment becomes due.

~~SEC. 3. Section 695.211 of the Code of Civil Procedure is amended to read:~~

~~695.211. (a) Every money judgment or order for child support shall provide notice that interest on arrearages accrues at the legal rate commencing, as to each installment, on the date the installment becomes due. The judgment or order shall also provide notice that, notwithstanding the foregoing, interest shall not commence to accrue on any installment of child support until the support obligor (1) has actual notice, by personal service or by certified mail with return receipt required, that the judgment or order for child support has been entered, (2) has been served with notice of levy on his or her assets pursuant to Section 11350.7 of the Welfare and Institutions Code, or (3) has been served with notice of an earnings assignment order pursuant to Section 5234 of the Family Code or an earning withholding order for support pursuant to Section 706.030.~~

~~(b) The notice provisions required by this section shall be incorporated in the appropriate Judicial Council forms.~~

~~(c) Upon implementation of the Statewide Automated Child Support System (SACSS) prescribed in Section 10815 of the Welfare and Institutions Code and certification of the SACSS by the United States Department of Health and Human Services, whenever a statement of account is issued by the district attorney in any child support action, the statement shall include a statement of an amount of current support, arrears, and interest due.~~

~~SEC. 4.~~

~~SEC. 3. Section 695.212 is added to the Code of Civil Procedure, to read:~~

~~695.212. (a) Notwithstanding subdivision (a) of Section 695.211, no interest shall accrue on any installments of child support for any period of time during~~

1 *Section 695.211 or any other provision of law, no*
2 *installments of child support shall become due, and no*
3 *interest on any arrearages shall accrue, for any period of*
4 *time in excess of 90 days during which the support obligor*
5 *is incarcerated in any jail or correctional facility. This*
6 *section shall be applicable to all installments of child*
7 *support that become due on or after the effective date of*
8 *this section, irrespective of the date of the judgment or*
9 *order.*

10 (b) Upon the entry of a prisoner into any jail or
11 correctional facility, the prisoner shall be advised of the
12 provisions of this section and the prisoner's right, under
13 Section 11350.85 of the Welfare and Institutions Code, to
14 have any child support obligations recalculated, if
15 necessary to comply with this section.

16 (c) *This section shall not apply if the support obligor,*
17 *notwithstanding his or her incarceration, has continuing*
18 *income or assets that may be attached or otherwise*
19 *applied to satisfy his or her support obligations.*

20 ~~SEC. 5.~~

21 SEC. 4. The heading of Chapter 6 (commencing with
22 Section 3650) of Part 1 of Division 9 of the Family Code
23 is amended to read:

24

25 CHAPTER 6. MODIFICATION, TERMINATION, OR SET ASIDE
26 OF SUPPORT ORDERS

27

28 ~~SEC. 6.~~

29 SEC. 5. Section 3651.5 is added to the Family Code, to
30 read:

31 ~~3651.5. In any case where a parent has requested or is~~
32 ~~receiving support enforcement services of the district~~
33 ~~attorney, the district attorney shall accept service on~~
34 ~~behalf of that parent in any proceeding pursuant to this~~
35 ~~chapter. read:~~

36 *3651.5. In any proceeding pursuant to this chapter, if*
37 *a parent has requested or is receiving support*
38 *enforcement services of the district attorney and the*
39 *whereabouts of that parent are not known, or there is*
40 *reason to believe that the parent may not appear in the*

1 *proceeding although ordered to personally appear, the*
2 *district attorney shall take all actions necessary to locate*
3 *the parent and to procure compliance with the order to*
4 *appear for purposes of modification, termination, or*
5 *setting aside the support order.*

6 ~~SEC. 7.~~

7 SEC. 6. Section 3652 of the Family Code is amended
8 to read:

9 3652. Except as against a governmental agency, an
10 order modifying, terminating, or setting aside a support
11 order may include an award of attorney's fees and court
12 costs to the prevailing party.

13 ~~SEC. 8.~~

14 SEC. 7. Section 3653 of the Family Code is amended
15 to read:

16 3653. (a) An order modifying, terminating, or setting
17 aside a support order may be made retroactive to the date
18 of the filing of the notice of motion or order to show cause
19 to modify, terminate, or set aside, or to any subsequent
20 date, except as provided in subdivision (b) or by federal
21 law (42 U.S.C. Sec. 666(a)(9)).

22 (b) If an order modifying or terminating a support
23 order is entered due to the unemployment of either the
24 support obligor or the support obligee, the order shall be
25 made retroactive to the later of the date of the service on
26 the opposing party of the notice of motion or order to
27 show cause to modify or terminate or the date of
28 unemployment, subject to the notice requirements of
29 federal law (42 U.S.C. Sec. 666(a)(9)), unless the court
30 finds good cause not to make the order retroactive and
31 states its reasons on the record.

32 (c) If an order decreasing or terminating a support
33 order is entered retroactively pursuant to this section, the
34 support obligor shall nevertheless not be entitled to, and
35 the support obligee shall have no obligation to repay, any
36 amounts previously paid by the support obligor pursuant
37 to the prior order that are in excess of the amounts due
38 pursuant to the retroactive order.

39 ~~SEC. 9.~~

1 SEC. 8. Section 3654 of the Family Code is amended
2 to read:

3 3654. At the request of either party, an order
4 modifying, terminating, or setting aside a support order
5 shall include a statement of decision.

6 ~~SEC. 10.~~

7 SEC. 9. Article 4 (commencing with Section 3690) is
8 added to Chapter 6 of Part 1 of Division 9 of the Family
9 Code, to read:

10
11 Article 4. Relief From Orders
12

13 3690. (a) The court may, on any terms that may be
14 just, relieve a party from a support order, or any part or
15 parts thereof, after the six-month time limit of Section 473
16 of the Code of Civil Procedure has run, based on the
17 grounds, and within the time limits, provided in this
18 article.

19 (b) In all proceedings under this division, before
20 granting relief, the court shall find that the facts alleged
21 as the grounds for relief materially affected the original
22 order and that the moving party would materially benefit
23 from the granting of the relief.

24 (c) Nothing in this article shall limit or modify the
25 provisions of Section 11356 *or* 11356.5 of the Welfare and
26 Institutions Code.

27 3691. The grounds and time limits for an action or
28 motion to set aside a support order, or any part or parts
29 thereof, are governed by this section and shall be one of
30 the following:

31 (a) Actual fraud. Where the defrauded party was kept
32 in ignorance or in some other manner, other than his or
33 her own lack of care or attention, was fraudulently
34 prevented from fully participating in the proceeding. An
35 action or motion based on fraud shall be brought within
36 ~~one-year~~ *six months* after the date on which the
37 complaining party discovered the fraud.

38 (b) Perjury. An action or motion based on perjury shall
39 be brought within ~~one-year~~ *six months* after the date on
40 which the complaining party discovered the perjury.

(c) Lack of Actual Notice.

(1) When service of a summons has not resulted in actual notice to a party in time to defend the action for support and a default or default judgment has been entered against him or her in the action, he or she may serve and file a notice of motion to set aside the default and for leave to defend the action. The notice of motion shall be served and filed within a reasonable time, but in no event later than six months after the party obtains actual notice (A) of the support order, or (B) that the party's *income and* assets are subject to attachment pursuant to the order.

(2) A notice of motion to set aside a support order pursuant to this subdivision shall be accompanied by an affidavit showing, under oath, that the party's lack of actual notice in time to defend the action was not caused by his or her avoidance of service or inexcusable neglect. The party shall serve and file with the notice a copy of the answer, motion, or other pleading proposed to be filed in the action.

(d) Interests of Justice. An action or motion to set aside a support order may be granted *on any of the grounds specified in subdivision (a), (b), or (c), after the expiration of the time period specified in those subdivisions* if the court finds, based on substantial evidence, that the interests of justice compel the granting of relief. An action or motion based on these grounds must be brought within six months following the occurrence of the events or the discovery of the facts that are alleged to compel the granting of relief.

~~3692. Notwithstanding any other provision of this article, or any other law, a support order may not be set aside simply because the court finds that it was inequitable when made, nor simply because subsequent circumstances caused the support ordered to become excessive or inadequate.~~

3692. If an action or motion to set aside a default with respect to a support order or judgment is granted pursuant to Section 473.5 of the Code of Civil Procedure or subdivision (c) of Section 3690, and the court finds that

1 *the lack of actual notice was the result of an intentionally*
2 *or grossly negligent failure of the plaintiff to comply with*
3 *the legal requirements regarding service of process, the*
4 *moving party shall be entitled to recover his or her*
5 *attorneys' fees and costs and compensatory damages*
6 *suffered as a result of the entry of the default or default*
7 *judgment, and punitive damages in an amount not to*
8 *exceed five thousand dollars (\$5,000).*

9 3693. When ruling on an action or motion to set aside
10 a support order, the court shall set aside only those
11 provisions materially affected by the circumstances
12 leading to the court's decision to grant relief. However,
13 the court has discretion to set aside the entire order, if
14 necessary, for equitable considerations.

15 ~~SEC. 11. Section 4724 of the Family Code is amended~~
16 ~~to read:~~

17 ~~4724. The notice of delinquency shall be served~~
18 ~~personally or by certified mail, requiring a return receipt.~~
19

20 *SEC. 10. Section 4071.5 of the Family Code is*
21 *repealed.*

22 ~~4071.5. For purposes of computing the minimum~~
23 ~~level of child support under Section 4070, no hardship~~
24 ~~shall be deemed to exist and no deduction from income~~
25 ~~shall be granted if aid payments are being made pursuant~~
26 ~~to Chapter 2 (commencing with Section 11200) of Part 3~~
27 ~~of Division 9 of the Welfare and Institutions Code on~~
28 ~~behalf of a child or children of the parent seeking the~~
29 ~~deduction, even if the payments are being received by~~
30 ~~the other parent.~~

31 *SEC. 11. Section 7575 of the Family Code is amended*
32 *to read:*

33 7575. (a) Either parent may rescind the voluntary
34 declaration of paternity by filing a rescission form with
35 the State Department of Social Services within 60 days of
36 the date of execution of the declaration by the attesting
37 father or attesting mother, whichever signature is later,
38 unless a court order for custody, visitation, or child
39 support has been entered in an action in which the
40 signatory seeking to rescind was a party. The State

1 Department of Social Services shall develop a form to be
 2 used by parents to rescind the declaration of paternity
 3 and instruction on how to complete and file the rescission
 4 with the State Department of Social Services. The form
 5 shall include a declaration under penalty of perjury
 6 completed by the person filing the rescission form that
 7 certifies that a copy of the rescission form was sent by any
 8 form of mail requiring a return receipt to the other
 9 person who signed the voluntary declaration of paternity.
 10 A copy of the return receipt shall be attached to the
 11 rescission form when filed with the State Department of
 12 Social Services. The form and instructions shall be written
 13 in simple, easy to understand language and shall be made
 14 available at the local family support office and the office
 15 of local registrar of births and deaths. *The department*
 16 *shall, upon written request, provide to a court or*
 17 *commissioner a copy of any rescission form filed with the*
 18 *department that is relevant to proceedings before the*
 19 *court or commissioner.*

20 (b) (1) Notwithstanding Section 7573, if the court
 21 finds that the conclusions of all of the experts based upon
 22 the results of the genetic tests performed pursuant to
 23 Chapter 2 (commencing with Section 7550) are that the
 24 man who signed the voluntary declaration is not the
 25 father of the child, the court may set aside the voluntary
 26 declaration of paternity.

27 (2) The notice of motion for genetic tests under this
 28 section may be filed not later than two years from the date
 29 of the child's birth by either the mother ~~or~~ the man who
 30 signed the voluntary declaration as the child's father; *or*
 31 in an action to determine the existence or nonexistence
 32 of the father and child relationship pursuant to Section
 33 7630 or in any action to establish an order for child
 34 custody, visitation, or child support based upon the
 35 voluntary declaration of paternity.

36 (3) The notice of motion for genetic tests pursuant to
 37 this section shall be supported by a declaration under oath
 38 submitted by the moving party stating the factual basis
 39 for putting the issue of paternity before the court.

1 (c) (1) Nothing in this chapter shall be construed to
2 prejudice or bar the rights of either parent to file an
3 action or motion to set aside the voluntary declaration of
4 paternity on any of the grounds described in, and within
5 the time limits specified in, Section 473 of the Code of
6 Civil Procedure ~~and Chapter 10 (commencing with~~
7 ~~Section 2120) of Part 1 of Division 6 or Section 7645.~~ If the
8 action or motion to set aside the voluntary declaration of
9 paternity is for fraud or perjury, the act must have
10 induced the defrauded parent to sign the voluntary
11 declaration of paternity. If the action or motion to set
12 aside a judgment is required to be filed within a specified
13 time period under Section 473 of the Code of Civil
14 Procedure or ~~Section 2122~~ 7645, the period within which
15 the action or motion to set aside the voluntary declaration
16 of paternity must be filed shall commence on the date
17 that the court makes a finding of paternity based upon the
18 voluntary declaration of paternity in an action for
19 custody, visitation, or child support.

20 (2) The parent seeking to set aside the voluntary
21 declaration of paternity shall have the burden of proof.

22 (3) Any order for custody, visitation, or child support
23 shall remain in effect until the court determines that the
24 voluntary declaration of paternity should be set aside,
25 subject to the court's power to modify the orders as
26 otherwise provided by law.

27 (4) Nothing in this section is intended to restrict a
28 court from acting as a court of equity.

29 (5) If the voluntary declaration of paternity is set aside
30 pursuant to paragraph (1), the court shall order that the
31 mother, child, and alleged father submit to genetic tests
32 pursuant to Chapter 2 (commencing with Section 7550).
33 If the court finds that the conclusions of all the experts, as
34 disclosed by the evidence based upon the genetic tests,
35 are that the person who executed the voluntary
36 declaration of paternity is not the father of the child, the
37 question of paternity shall be resolved accordingly. If the
38 person who executed the declaration as the father of the
39 child is not excluded as a possible father, the question of
40 paternity shall be resolved as otherwise provided by law.

1 If the person who executed the declaration of paternity
2 is ultimately determined to be the father of the child, any
3 child support that accrued under an order based upon the
4 voluntary declaration of paternity shall remain due and
5 owing.

6 (6) The Judicial Council shall develop the forms and
7 procedures necessary to effectuate this subdivision.

8 SEC. 12. Section 7642 of the Family Code is amended
9 to read:

10 7642. The court has continuing jurisdiction to modify
11 or set aside a judgment or order made under this part. A
12 judgment or order relating to an adoption may only be
13 modified or set aside in the same manner and under the
14 same conditions as an order of adoption may be modified
15 or set aside under Section 9100 or 9102.

16 SEC. 13. Section 7645 is added to the Family Code, to
17 read:

18 ~~7645. (a) The court may, on any terms that may be~~
19 ~~just, relieve a party from an order made under this article,~~
20 ~~after the six-month time limit of Section 473 of the Code~~
21 ~~of Civil Procedure has run, based on the grounds, and~~
22 ~~within the time limits, provided in this section.~~

23 ~~(b) Before granting relief, the court shall find that the~~
24 ~~facts alleged as the grounds for relief materially affected~~
25 ~~the original order.~~

26 ~~(c) The grounds and time limits for a motion to set~~
27 ~~aside an order made under this part shall be one of the~~
28 ~~following:~~

29 ~~(1) Actual fraud. Where the defrauded party was kept~~
30 ~~in ignorance or in some other manner, other than his or~~
31 ~~her own lack of care or attention, was fraudulently~~
32 ~~prevented from fully participating in the proceeding. An~~
33 ~~action or motion based on fraud shall be brought within~~
34 ~~one year after the date on which the complaining party~~
35 ~~either did discover, or should have discovered, the fraud.~~

36 ~~(2) Perjury. An action or motion based on perjury shall~~
37 ~~be brought within one year after the date on which the~~
38 ~~complaining party either did discover, or should have~~
39 ~~discovered, the perjury.~~

40 ~~(3) Lack of Actual Notice.~~

~~(A) When service of a summons has not resulted in actual notice to a party in time to defend the action or motion and default or default judgment has been entered against him or her in the action, he or she may serve and file a notice of motion to set aside the default and for leave to defend the action. The notice of motion shall be served and filed within a reasonable time, but in no event later than six months after the party obtains actual notice of the order.~~

~~(B) A notice of motion to set aside an order under this paragraph shall be accompanied by an affidavit showing under oath that the party's lack of actual notice in time to defend the action was not caused by his or her avoidance of service or inexcusable neglect. The party shall serve and file with the notice a copy of the answer, motion, or other pleading proposed to be filed in the action.~~

~~(4) Interests of Justice. An action or motion to set aside an order under this article may be granted if the court finds, based on substantial evidence, that the interests of justice compel the granting of relief. An action or motion based on these grounds must be brought within six months following the occurrence of the events or the discovery of the facts that are alleged to compel the granting of relief.~~

7645. (a) For purposes of this section, "previously established father" means a person identified as the father of a child in an order or judgment of the superior court in which the issue of paternity was, or could have been, raised.

(b) Notwithstanding any other provision of law, the court may set aside a judgment or order made under this article, after the time limits of Sections 473 and 473.5 of the Code of Civil Procedure have run, as provided in this section.

(c) A party may seek to set aside a judgment or order pursuant to this section only by a motion made subsequent to the entry of an order or judgment in which a person was identified as the father of a child and the issue of paternity was, or could have been, raised. If, at the

1 hearing on the motion, the court finds that the
2 conclusions of all of the experts based upon the results of
3 genetic tests performed pursuant to Chapter 2
4 (commencing with Section 7550) are that the previously
5 established father is not the biological father of the child,
6 the court may set aside the order or judgment
7 establishing paternity.

8 (d) A judgment or order may not be set aside pursuant
9 to this section if any of the following conditions exist:

10 (1) The judgment or order was entered following a
11 trial or hearing at which the previously established father
12 was present, knew that his paternity was or could be at
13 issue, and failed to dispute his paternity or put his
14 paternity at issue.

15 (2) The judgment or order was the result of a
16 stipulation in open court after the parties were advised of
17 their rights to a trial on the issue of paternity and to have
18 genetic testing performed to determine biological
19 parentage of the child and given notice that this testing
20 would be paid for initially by the district attorney.

21 (e) A judgment or order may be set aside pursuant to
22 this section only if all of the following conditions are
23 satisfied:

24 (1) The motion to set aside the judgment or order shall
25 be filed by the child, the child's natural mother, the
26 previously established father, or any legal representative
27 of any of these persons.

28 (2) The motion shall contain all of the following
29 information, if known:

30 (A) The legal name, age, county of residence, and
31 residence address of the child.

32 (B) The names, mailing addresses, and counties of
33 residence of the child's natural mother, the previously
34 established father, the alleged biological father of the
35 child, and the guardian, custodian, or guardian ad litem,
36 if any, of the child.

37 (C) A declaration that the person seeking the order to
38 set aside the paternity judgment or order believes that
39 the previously established father is not the biological
40 father of the child and the specific reasons for that belief.

1 (f) A motion pursuant to this section shall be served on
2 all of the following persons, if known, excluding the
3 moving party, and proof of service shall be filed with the
4 court:

5 (1) The natural mother of the child.

6 (2) The previously established father of the child.

7 (3) The child.

8 (4) The district attorney, if services are being
9 provided to the child pursuant to Subtitle D
10 (commencing with Section 450) or Subtitle E
11 (commencing with Section 650) of Title IV of the federal
12 Social Security Act (42 U.S.C. Sec. 650 and Sec. 670 et
13 seq.).

14 (g) A guardian ad litem shall be appointed for the
15 child to represent the best interest of the child.

16 (h) Any genetic testing used to support the motion to
17 set aside the paternity judgment or order shall be
18 conducted in accordance with Chapter 2 (commencing
19 with Section 7570) of Part 2. The court shall, at the request
20 of any person specified in subdivision (f) or upon its own
21 motion, order additional genetic testing to confirm any
22 prior test upon which an expert has concluded that the
23 previously established father is not the biological father
24 of the child.

25 (i) If the court finds that the conclusions of all of the
26 experts based upon the results of genetic tests performed
27 pursuant to Chapter 2 (commencing with Section 7550)
28 are that the previously established father is not the
29 biological father of the child, the court may, nevertheless,
30 deny the motion if it determines that denial of the motion
31 is in the child's best interest, after consideration of the
32 following factors:

33 (1) The age of the child.

34 (2) The length of time since the entry of the judgment
35 or order establishing paternity.

36 (3) The length of time since the person bringing the
37 motion knew, or should have known, the facts specified
38 in subparagraph (C) of paragraph (4) of subdivision (e).

39 (4) The nature, duration, and quality of any
40 relationship between the previously established father

1 *and the child, including the duration and frequency of*
2 *any time periods during which the child and the*
3 *previously established father resided in the same*
4 *household or enjoyed a parent-child relationship.*

5 *(5) The request of the previously established father*
6 *that the parent-child relationship continue.*

7 *(6) Notice by the biological father of the child that he*
8 *does not oppose preservation of the relationship between*
9 *the previously established father and the child.*

10 *(7) The benefit or detriment to the child in*
11 *establishing the child's biological parentage.*

12 *(8) Whether the previously established father was led*
13 *to believe he was the biological father due to fraud or*
14 *deceit by the mother or lack of knowledge regarding*
15 *genetic testing.*

16 *(9) Additional factors deemed by the court to be*
17 *relevant to its determination of the child's best interest.*

18 *(k) This section shall not be construed as a basis for*
19 *termination of any adoption, nor shall it affect any*
20 *obligation of an adoptive parent to an adoptive child.*

21 *(l) Unless specifically addressed in an order granting*
22 *a motion brought pursuant to this section, all prior orders*
23 *granting custody or visitation to a previously established*
24 *father shall be terminated by the order granting the*
25 *motion to set aside the parentage order or judgment.*

26 *(m) All prior orders or judgments directing the*
27 *previously established father to provide support to the*
28 *child, all accrued obligations and arrearages thereunder,*
29 *and all enforcement actions in connection therewith,*
30 *shall be terminated by the order granting the motion to*
31 *set aside the parentage order or judgment. The*
32 *previously established father shall have no right to*
33 *reimbursement for any amounts of support paid prior to*
34 *the granting of the motion.*

35 *(n) Participation of the district attorney in a motion*
36 *brought under this section shall be limited as follows:*

37 *(1) The district attorney shall participate in the*
38 *proceeding only if he or she is providing services specified*
39 *in Subtitle D (commencing with Section 450) of Title IV*

1 *of the federal Social Security Act (42 U.S.C. Sec. 650 et*
2 *seq.) at the time the motion is filed or heard.*

3 (2) *When the district attorney participates in a*
4 *proceeding under this section, he or she may obtain an*
5 *administrative order for genetic tests, as specified in*
6 *Section 7558.*

7 (3) *The district attorney shall not be responsible for*
8 *the costs of genetic testing when performed in*
9 *connection with a proceeding under this section, nor is*
10 *the district attorney required to provide for, or assist in,*
11 *genetic testing in any case in which he or she is not*
12 *providing those services described in paragraph (1).*

13 SEC. 14. Section 166.5 is added to the Penal Code, to
14 read:

15 166.5. (a) After arrest and before plea or trial or after
16 conviction or plea of guilty and before sentence under
17 paragraph (4) of subdivision (a) of Section 166, for willful
18 disobedience of any order for child, spousal, or family
19 support issued pursuant to Division 9 (commencing with
20 Section 3500) of the Family Code, the court may suspend
21 proceedings or sentence therein if:

22 (1) The defendant appears before the court and
23 affirms his or her obligation to pay to the person having
24 custody of the child, or the spouse, that sum per month
25 as shall have been previously fixed by the court in order
26 to provide for the minor child or the spouse.

27 (2) The defendant provides a bond or other
28 undertaking with sufficient sureties to the people of the
29 State of California in a sum as the court may fix to secure
30 the defendant's performance of his or her support
31 obligations and that bond or undertaking is valid and
32 binding for two years, or any lesser time that the court
33 shall fix. *The court may, in its discretion, waive provision*
34 *by the defendant of the bond or other undertaking*
35 *described in this paragraph.*

36 (b) Upon the failure of the defendant to comply with
37 ~~the terms of the bond or undertaking described in the~~
38 ~~conditions imposed by the court in~~ subdivision (a), the
39 defendant may be ordered to appear before the court and
40 show cause why further proceedings should not be had in

1 the action or why sentence should not be imposed,
2 whereupon the court may proceed with the action, or
3 pass sentence, or for good cause shown may modify the
4 order and take a new bond or undertaking and further
5 suspend proceedings or sentence for a like period.

6 SEC. 15. *Section 11350 of the Welfare and Institutions*
7 *Code is amended to read:*

8 11350. (a) In any case of separation or desertion of a
9 parent or parents from a child or children—~~which that~~
10 results in aid under this chapter being granted to that
11 family, the noncustodial parent or parents shall be
12 obligated to the county for an amount equal to the
13 following:

14 (1) The amount specified in an order for the support
15 and maintenance of ~~such the~~ family issued by a court of
16 competent jurisdiction; ~~or in the absence of such court~~
17 ~~order, the amount specified in paragraph (2).~~

18 (2) ~~The amount of support which would have been~~
19 ~~specified in an order for the support and maintenance of~~
20 ~~the family during the period of separation or desertion~~
21 ~~provided that any such amount in excess of the aid paid~~
22 ~~to the family shall not be retained by the county, but~~
23 ~~disbursed to the family.~~

24 (3) ~~The obligation shall be reduced by any amount~~
25 ~~actually paid by such the~~ parent directly to the custodian
26 of the child or to the district attorney of the county in
27 which the child is receiving aid during the period of
28 separation or desertion for the support and maintenance
29 of the family.

30 (b) The district attorney shall take appropriate action
31 pursuant to this section as provided in subdivision (1) of
32 Section 11475.1. The district attorney may establish
33 liability for child support as provided in subdivision (a)
34 when public assistance was provided by another county
35 or by other counties.

36 (c) ~~The amount of the obligation established under~~
37 ~~paragraph (2) of subdivision (a) shall be determined by~~
38 ~~using the appropriate child support guidelines currently~~
39 ~~in effect. If one parent remains as a custodial parent, the~~
40 ~~guideline support shall be computed in the normal~~

1 manner. If neither parent remains as a custodial parent,
2 the support shall be computed by combining the
3 noncustodial parents' incomes and placing the figure
4 obtained in the column for noncustodial parent. A zero
5 shall be placed in the column for the custodial parent and
6 the amount of guideline support resulting shall be
7 proportionately shared between the parents as directed
8 by the court. The parents shall pay the amount of support
9 specified in the support order to the district attorney.

10 *SEC. 16.* Section 11350.01 is added to the Welfare and
11 Institutions Code, to read:

12 11350.01. In any case of a continued absence of a
13 parent from the home, as described in subdivision (c) of
14 Section 11250, that results in aid under this chapter being
15 granted to the family, the county welfare department
16 shall promptly notify the noncustodial parent or parents,
17 at the parent's last known address, that aid has been
18 granted and that the noncustodial parent or parents shall
19 be obligated to the county for the amounts specified in
20 Section 11350. *This section shall not apply in any case*
21 *where the custodial parent has been determined to have*
22 *good cause for noncooperation pursuant to Section*
23 *11477.04.*

24 ~~SEC. 16.~~

25 *SEC. 17.* Section 11350.02 is added to the Welfare and
26 Institutions Code, to read:

27 11350.02. Notwithstanding any other provision of law,
28 in any action filed by the district attorney pursuant to
29 Section 11350, 11350.1, or 11475.1 to establish child
30 support, the amount of the judgment or order shall not
31 include, and the district attorney shall not be authorized
32 to collect, any amount of support for any period prior to
33 the date of service of the complaint in the action.

34 *SEC. 18.* Section 11350.61 is added to the Welfare and
35 Institutions Code, to read:

36 11350.61. The order to show cause or notice of motion
37 described in subdivision (j) of Section 11350.6 shall be
38 filed and heard in the superior court. If, however,
39 criminal proceedings pursuant to paragraph (4) of
40 subdivision (a) of Section 166 of the Penal Code, relating

1 to a support order, or pursuant to Section 270 of the Penal
2 Code are pending against the applicant in the municipal
3 court, in a county in which there is a municipal court, the
4 order to show cause or notice of motion shall be filed and
5 heard in that court.

6 ~~SEC. 17.~~

7 *SEC. 19.* Section 11350.63 is added to the Welfare and
8 Institutions Code, to read:

9 11350.63. Any board that has received a release
10 pursuant to Section 11350.6 shall process the release
11 within two business days after receipt.

12 ~~SEC. 18.~~

13 *SEC. 20.* Section 11350.85 is added to the Welfare and
14 Institutions Code, to read:

15 11350.85. (a) In conducting the review of the
16 statement of arrearages described in Section 11350.8, the
17 district attorney shall make reasonable efforts to
18 determine if the support obligor is incarcerated in any jail
19 or correctional facility. The statement of arrearages
20 provided by the applicant for child support services
21 described in Section 11350.9 shall contain a statement
22 whether, to the best of the applicant's knowledge, the
23 support obligor is *or has been* incarcerated in any jail or
24 correctional facility *for a period of 90 days or longer*.

25 (b) If it is determined that the support obligor is *or has*
26 *been* incarcerated in any jail or correctional facility *for a*
27 *period of 90 days or longer*, any ~~accrued interest on the~~
28 ~~support arrearages shall be~~ *installments of support and*
29 *any accrued interest on any support arrearages shall be*
30 calculated, or adjusted, according to Section 695.212 of
31 the Code of Civil Procedure.

32 (c) The district attorney shall provide a simplified
33 form to enable a support obligor who is incarcerated in a
34 jail or correctional facility to request a recalculation of his
35 or her support arrearages based on Section 695.212 of the
36 Code of Civil Procedure.

37 (d) If the district attorney determines that the support
38 obligor is entitled to a reduction in the amount of support
39 arrearages based on Section 695.212 of the Code of Civil

1 Procedure, the district attorney shall, on its own motion,
2 obtain an order of the court making that adjustment.

3 ~~SEC. 19.~~

4 *SEC. 21.* Section 11356.5 is added to the Welfare and
5 Institutions Code, to read:

6 11356.5. In any action in which a judgment or order
7 for support was entered after the entry of the default of
8 the defendant under Section 11355, the court shall relieve
9 the defendant from that judgment or order if the
10 defendant establishes that he or she was mistakenly
11 identified in the order or in any subsequent documents
12 or proceedings as the person having an obligation to
13 provide support. The defendant shall also be entitled to
14 the remedies specified in subdivisions (d) and (e) of
15 Section 11358 with respect to any actions taken to enforce
16 that judgment or order.

17 ~~SEC. 20.~~

18 *SEC. 22.* Section 11358 is added to the Welfare and
19 Institutions Code, to read:

20 11358. (a) Notwithstanding any other provision of
21 law, this section shall apply to any actions taken to enforce
22 a judgment or order for support entered as a result of
23 action filed by the district attorney pursuant to Section
24 11350, ~~11250.1~~ 11350.1, or 11475.1, where it is alleged that
25 the enforcement actions have been taken in error against
26 a person who is not the support obligor named in the
27 judgment or order.

28 (b) Any person claiming that any support
29 enforcement actions have been taken against that person,
30 or his or her wages or assets, in error, shall file a claim of
31 mistaken identity with the district attorney. The claim
32 shall include verifiable information or documentation to
33 establish that the person against whom the enforcement
34 actions have been taken is not the person named in the
35 support order or judgment. The claim shall be filed on a
36 form established by the Judicial Council that shall specify,
37 immediately above the signature line, that the filing of a
38 false claim shall be punishable as a misdemeanor. A copy
39 of the claim form shall be date stamped by the office of
40 the district attorney and shall be returned to the claimant.

1 (c) The district attorney shall immediately investigate
2 any claim of mistaken identity and shall resolve the claim
3 within 30 days unless exceptional circumstances prevent
4 a resolution within that time. The district attorney shall
5 provide the claimant with a written statement of the
6 district attorney's conclusions, or a statement explaining
7 the exceptional circumstances that have delayed the
8 district attorney's conclusions and an estimated date
9 when conclusions will be reached, within that 30-day
10 period.

11 (d) If the district attorney determines that a claim
12 filed pursuant to this section is meritorious, or if the court
13 enters an order pursuant to Section 11356.5, the district
14 attorney shall immediately take the steps necessary to
15 terminate all enforcement activities with respect to the
16 claimant, to return to the claimant any assets seized, to
17 terminate any levying activities or attachment or
18 assignment orders, *to release any license renewal or*
19 *application being withheld pursuant to Section 11350.6, to*
20 *return any sums paid by the claimant pursuant to the*
21 *judgment or order, including sums paid to any federal,*
22 *state, or local government, but excluding sums paid*
23 *directly to the support obligee,* and to ensure that all
24 other enforcement agencies and entities cease further
25 actions against the claimant. With respect to a claim filed
26 under this section, the district attorney shall also provide
27 the claimant with a statement certifying that the claimant
28 is not the support obligor named in the support order or
29 judgment, which statement shall be prima facie evidence
30 of the claimant's identity in any subsequent enforcement
31 proceedings or actions with respect to that support order
32 or judgment.

33 (e) If the district attorney rejects a claim pursuant to
34 this section, or if the district attorney, after finding a claim
35 to be meritorious, fails to take any of the remedial steps
36 provided in subdivision (d), the claimant may file an
37 action with the superior court to establish his or her
38 mistaken identity or to obtain the remedies described in
39 subdivision (d), or both. If the claimant is the prevailing
40 party in that action, he or she shall be entitled, in addition

1 to the relief described in subdivision (d), to recover
2 actual damages, according to proof, his or her attorneys'
3 fees and costs, and any other relief as the court, in its
4 discretion, deems just. Liability under this subdivision
5 shall not be limited by the provisions of Chapter 1
6 (commencing with Section 814) of Division 3.6 of Title 1
7 of the Government Code.

8 (f) Filing a false claim pursuant to this section shall be
9 a misdemeanor.

10 (g) The Judicial Council shall develop forms for use
11 pursuant to this section.

12 (h) This section shall become operative on April 1,
13 2000.

14 ~~SEC. 21.~~

15 *SEC. 23. Section 11475.12 is added to the Welfare and*
16 *Institutions Code, to read:*

17 *11475.12. If the parent who has requested support*
18 *enforcement services provides to the district attorney*
19 *substantial, credible, information regarding the*
20 *residence or work address of the support obligor, the*
21 *district attorney shall initiate an enforcement action and*
22 *serve the defendant within 60 days and inform the parent*
23 *in writing when those actions have been taken. If the*
24 *address or any other information provided by the support*
25 *obligee is determined by the district attorney to be*
26 *inaccurate and if, after reasonable diligence, the district*
27 *attorney is unable to locate and serve the support obligor*
28 *within that 60-day period, the district attorney shall*
29 *inform the support obligee in writing of those facts. The*
30 *requirements of this section shall be in addition to the*
31 *time standards established by the State Department of*
32 *Social Services pursuant to subdivision (k) of Section*
33 *11475.1.*

34 *SEC. 24. Section 11475.17 is added to the Welfare and*
35 *Institutions Code, to read:*

36 *11475.17. In any case in which any governmental*
37 *agency, or any subdivision or department thereof, issues*
38 *a notice of support delinquency, that notice shall state on*
39 *its face the date on which the delinquency was calculated.*

40 ~~SEC. 22.~~

SEC. 25. Section 11478.1 of the Welfare and Institutions Code is amended to read:

11478.1. (a) It is the intent of the Legislature to protect individual rights of privacy, and to facilitate and enhance the effectiveness of the child and spousal support enforcement program, by ensuring the confidentiality of support enforcement and child abduction records, and to thereby encourage the full and frank disclosure of information relevant to all of the following:

(1) The establishment or maintenance of parent and child relationships and support obligations.

(2) The enforcement of the child support liability of absent parents.

(3) The enforcement of spousal support liability of the spouse or former spouse to the extent required by the state plan under Section 11475.2 of this code and Chapter 6 (commencing with Section 4900) of Part 5 of Division 9 of the Family Code.

(4) The location of absent parents.

(5) The location of parents and children abducted, concealed, or detained by them.

(b) (1) Except as provided in subdivision (c), all files, applications, papers, documents, and records established or maintained by any public entity pursuant to the administration and implementation of the child and spousal support enforcement program established pursuant to Part D (commencing with Section 651) of Subchapter IV of Chapter 7 of Title 42 of the United States Code and this article, shall be confidential, and shall not be open to examination or released for disclosure for any purpose not directly connected with the administration of the child and spousal support enforcement program. No public entity shall disclose any file, application, paper, document, or record, or the information contained therein, except as expressly authorized by this section.

(2) In no case shall information be released or the whereabouts of one party or the child disclosed to another party, or to the attorney of any other party, if a protective order has been issued by a court or administrative agency

1 with respect to the former party, a good cause claim
2 under Section 11477.04 has been approved or is pending,
3 or the public agency responsible for establishing
4 paternity or enforcing support has reason to believe that
5 the release of the information may result in physical or
6 emotional harm to the former party or the child.

7 (3) Notwithstanding any other provision of law, a
8 proof of service filed by the district attorney shall not
9 disclose the address where service of process was
10 accomplished. Instead, the district attorney shall keep the
11 address in his or her own records. The proof of service
12 shall specify that the address is on record at the district
13 attorney's office and that the address may be released
14 only upon an order from the court pursuant to paragraph
15 (6) of subdivision (c). *The district attorney shall, upon*
16 *request by a party served, release to that person the*
17 *address where service was effected.*

18 (c) Disclosure of the information described in
19 subdivision (b) is authorized as follows:

20 (1) All files, applications, papers, documents and
21 records as described in subdivision (b) shall be available
22 and may be used by a public entity for all administrative,
23 civil, or criminal investigations, actions, proceedings, or
24 prosecutions conducted in connection with the
25 administration of the child and spousal support
26 enforcement program approved under Part D
27 (commencing with Section 651) of Subchapter IV of
28 Chapter 7 of Title 42 of the United States Code, and any
29 other plan or program described in Section 303.21 of Title
30 45 of the Code of Federal Regulations and to the county
31 welfare department responsible for administering a
32 program operated under a state plan pursuant to Subpart
33 1 or 2 or Part B or Part E of Subchapter IV of Chapter 7
34 of Title 42 of the United States Code.

35 (2) A document requested by a person who wrote,
36 prepared, or furnished the document may be examined
37 by or disclosed to that person or his or her designee.

38 (3) The payment history of an obligor pursuant to a
39 support order may be examined by or released to the
40 court, the obligor, or the person on whose behalf

1 enforcement actions are being taken or that person's
2 designee.

3 (4) Income and expense information of either parent
4 may be released to the other parent for the purpose of
5 establishing or modifying a support order.

6 (5) Public records subject to disclosure under the
7 Public Records Act (Chapter 3.5 (commencing with
8 Section 6250) of Division 7 of the Government Code) may
9 be released.

10 (6) After a noticed motion and a finding by the court,
11 in a case in which establishment or enforcement actions
12 are being taken, that release or disclosure to the obligor
13 or obligee is required by due process of law, the court may
14 order a public entity that possesses an application, paper,
15 document, or record as described in subdivision (b) to
16 make that item available to the obligor or obligee for
17 examination or copying, or to disclose to the obligor or
18 obligee the contents of that item. Article 9 (commencing
19 with Section 1040) of Chapter 4 of Division 3 of the
20 Evidence Code shall not be applicable to proceedings
21 under this part. At any hearing of a motion filed pursuant
22 to this section, the court shall inquire of the district
23 attorney and the parties appearing at the hearing if there
24 is reason to believe that release of the requested
25 information may result in physical or emotional harm to
26 a party. If the court determines that harm may occur, the
27 court shall issue any protective orders or injunctive
28 orders restricting the use and disclosure of the
29 information as are necessary to protect the individuals.

30 (7) To the extent not prohibited by federal law or
31 regulation, information indicating the existence or
32 imminent threat of a crime against a child, or location of
33 a concealed, detained, or abducted child or the location
34 of the concealing, detaining, or abducting person, may be
35 disclosed to any district attorney, any appropriate law
36 enforcement agency, or to any state or county child
37 protective agency, or may be used in any judicial
38 proceedings to prosecute that crime or to protect the
39 child.

1 (8) The social security number, most recent address,
2 and the place of employment of the absent parent may be
3 released to an authorized person as defined in Section
4 653(c) of Title 42 of the United States Code, only if the
5 authorized person has filed a request for the information,
6 and only if the information has been provided to the
7 California Parent Locator Service by the federal Parent
8 Locator Service pursuant to Section 653 of Title 42 of the
9 United States Code.

10 (d) (1) “Administration and implementation of the
11 child and spousal support enforcement program,” as used
12 in this section, means the carrying out of the state and
13 local plans for establishing, modifying, and enforcing
14 child support obligations, enforcing spousal support
15 orders, and determining paternity pursuant to Part D
16 (commencing with Section 651) of Subchapter IV of
17 Chapter 7 of Title 42 of the United States Code and this
18 article.

19 (2) For purposes of this section, “obligor” means any
20 person owing a duty of support.

21 (3) As used in this chapter, “putative parent” shall
22 refer to any person reasonably believed to be the parent
23 of a child for whom the district attorney is attempting to
24 establish paternity or establish, modify, or enforce
25 support pursuant to Section 11475.1.

26 (e) Any person who willfully, knowingly, and
27 intentionally violates this section is guilty of a
28 misdemeanor.

29 (f) Nothing in this section shall be construed to compel
30 the disclosure of information relating to a deserting
31 parent who is a recipient of aid under a public assistance
32 program for which federal aid is paid to this state, if that
33 information is required to be kept confidential by the
34 federal law or regulations relating to the program.

35 *SEC. 26.* Section 11478.3 is added to the Welfare and
36 Institutions Code, to read:

37 11478.3. The notice described in subdivision (c) of
38 Section 11478.2 shall also advise the person requesting
39 services or on whose behalf services have been requested
40 ~~that the district attorney or Attorney General shall accept~~

1 ~~service of process on behalf of that person in any~~
2 ~~subsequent proceedings commenced by the support~~
3 ~~obligor to modify, terminate, or set aside the support~~
4 ~~order.~~ *that it shall be that person's obligation to keep the*
5 *district attorney or Attorney General advised, at all times,*
6 *of the person's current home or other address where the*
7 *person can regularly be found for purposes of receiving*
8 *service of process.*

9 ~~SEC. 23.~~

10 SEC. 27. No reimbursement is required by this act
11 pursuant to Section 6 of Article XIII B of the California
12 Constitution for certain costs that may be incurred by a
13 local agency or school district because in that regard this
14 act creates a new crime or infraction, eliminates a crime
15 or infraction, or changes the penalty for a crime or
16 infraction, within the meaning of Section 17556 of the
17 Government Code, or changes the definition of a crime
18 within the meaning of Section 6 of Article XIII B of the
19 California Constitution.

20 However, notwithstanding Section 17610 of the
21 Government Code, if the Commission on State Mandates
22 determines that this act contains other costs mandated by
23 the state, reimbursement to local agencies and school
24 districts for those costs shall be made pursuant to Part 7
25 (commencing with Section 17500) of Division 4 of Title
26 2 of the Government Code. If the statewide cost of the
27 claim for reimbursement does not exceed one million
28 dollars (\$1,000,000), reimbursement shall be made from
29 the State Mandates Claims Fund.